

IN THE UNITED STATES DISTRICT COURT  
FOR THE STATE OF NEW MEXICO

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WELLS FARGO BANK, NATIONAL  
ASSOCIATION AS TRUSTEE FOR THE  
MLMI TRUST SERIES 2005-WMC2,

Plaintiff,

v.

CASE NO.: 08CV1148 (CG)(DJS)

KEVIN CLANTON AND CJ CLANTON,

Defendant(s),

And

KEVIN CLANTON AND CJ CLANTON

Third Party Plaintiffs,

v.

LENGINGTREE, INC.; MORTGAGE  
ELECTRONIC REGISTRATION SYSTEMS,  
INC.; MERRILL LYNCH CREDIT  
CORPORATION; WMC MORTGAGE CORP;  
WILSHIRE CREDIT CORPORATION, WELLS  
FARGO FINANCIAL NEW MEXICO, INC.;  
JOHN DOE MORTGAGE; JOHN DOE LENDING  
BANK; AND JANE DOE, CLOSING AGENT,

Third Party-Defendants.

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**THIRD-PARTY DEFENDANT WMC MORTGAGE LLC'S MOTION TO DISMISS**

**COMES NOW**, Third-Defendant WMC Mortgage LLC, by and through its counsel of record, Madison, Harbour & Mroz, P.A., and submits its Motion to Dismiss. The grounds in support of such motion are fully set forth in the Declaration of William C. Madison, made on December 19, 2008, the exhibits annexed thereto, the accompanying Memorandum of Law, and all of the pleadings and prior proceedings had herein. Based on these pleadings, Third-Party

Defendant WMC Mortgage LLC the successor in interest to WMC Mortgage Corp. (“WMC”), moves this Court for dismissal of the Third-Party Complaint against it, and for an order pursuant to FRCP 12(b)(6) dismissing the Third-Party Complaint against it together with costs, expenses, and disbursements and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that opposition papers, if any, shall be served in compliance with the applicable rules.

Dated: December 19, 2008

MADISON, HARBOR & MROZ, PA

/s/ William C. Madison  
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Attorneys for third-party defendant WMC  
Mortgage LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of December, 2008 I served a true and correct copy of the foregoing, via U.S. Mail, postage prepaid to the following:

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/s/William C. Madison  
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